Supreme Court, U.S.
FILED
05-829 AUG 29 2005
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

RONNIE MICKENS and
GLORIA J. MICKENS,

Petitioners

v.

ALLEN DAMRON CONSTRUCTION COMPANY
joined with
STEWART TITLE GUARANTY COMPANY

Respondents

Petition for a Writ of Certiorari to the
Second District Court of Appeals, Second District

State of Florida

PETITION FOR WRIT OF CERTIORARI

PRO SE
RONNIE MICKENS and GLORIA J. MICKENS
6420 Odom Road
LAKELAND, FLORIDA 33809
(863) 853-5991

QUESTIONS PRESENTED FOR REVIEW

1. Whether the trial judge's successor(s) and the Second District Court Of Appeals fundamentally erred by exceeding their Subject Matter Jurisdiction when the successor(s) judge supplanted the trial judge's Final Judgment On Petitioners' Counter-claim with an arbitrary Final Judgment of Rescission that both parties objected to and appealed and cross appealed?

2. Whether the trial judge's successor(s) and the Second District Court Of Appeals fundamentally erred by arbitrarily imposing a Final Judgment Of Rescission without affording the parties any semblance of Due Process and Equal Protection Of The Laws ?

3. Whether the Second District Court Of Appeals fundamentally erred when it affirmed a Final Judgment of Rescission that was un-supported by the pleadings, the evidence, and un-requested by neither parties, especially

when it had already ruled in the first appeal that it could not affirm a final judgment unsupported by the pleadings, the evidence, and un-requested by both party ?

4. Whether the trial judge's successors and the Second District Court Of Appeals fundamentally erred by failing to join indispensable parties and by failing to join Case No. GCG-97-0455/2D03-0455/SC05-257 and Case No, GCG-98-2977/2D04-2699/SC05-930 which was based on the same identical transaction?

5. Whether the trial judge's and the Second District Court Of Appeals fundamentally erred by failing to apply the principles of The Law Of The Case, Collateral Estoppel, Res Judicata and Stare Decisis to the trial judge's adjudicated findings and whether Case No. GCG-98-2977/2D04-2699/SC05-930 was precluded by preclusion law ?

6. Whether the trial judge's successor(s) and the Second District Court Of Appeals fundamentally erred by entering a final judgment awarding $234,854.84 in damages without

notice and hearing against Petitioners in favor of Respondent(s) because Petitioners objected to participate in a arbitrary remedy of rescission to Petitioners' (Prevailing Party) detriment ?

7. Whether the trial judge's successor(s) and the Second District Court Of Appeals fundamentally erred by unlawfully exercising their jurisdiction (Under Color Of Law) to authorize Respondent(s) to convert Petitioners' title to Petitioners Mickens' real property without legal standing, a right of action, a cause of action, and without procedural or substantive due process and equal protection of the laws ?

8. Whether the trial judge's successors and the Second District Court Of Appeals fundamentally erred by unlawfully exercising it jurisdiction (Under Color Of Law) when it granted Respondent Stewart Title Guaranty Company a Final Judgment of Foreclosure and Equitable Lien that was based on Stewart Title's invalid mortgage in a purported lawsuit Case No. GCG-98-2977/2D04-2699/SC05-930) against

Petitioners real property without Respondent Stewart Title being a bona fide purchaser for value or possessing legal or equitable standing, a right of action and a cause of action against Petitioners ?

9. Whether the trial judge's successor(s) and the Second District Court Of Appeals fundamentally erred when they entered two adverse final judgment against petitioners in favor of respondents that were not based on the allegations that respondents noticed, alleged, pled, supported with evidence or litigated but failed to punish respondents for their torts and crimes.

LIST OF PARTIES' JUDGMENTS SOUGHT TO BE REVIEWED

ALLEN DAMRON CONSTRUCTION COMPANY

Case No: GCG-97-0455/2D03-0455/ SC05-257

STEWART TITLE GUARANTY COMPANY

Case No: GCG-98-2977/2D04-2699/ SC05-930

LIST OF PARENT OR PUBLICLY HELD COMPANY TO BE LISTED

STEWART INFORMATION SERVICE CORPORATION (SISCO)

TABLE OF CONTENTS **PAGE**

QUESTIONS PRESENTED.....i

PARTIES TO PROCEEDINGS.....v

TABLE OF AUTHORITIES.....vii

JURISDICTION.....2

STATUTORY PROVISIONS INVOLVED.....6

STATEMENT OF THE CASE.....6

ARGUMENTS-POINTS I, II, III, IV, V, VI, VII, & VIII.....15

CONCLUSION.....30

TABLE OF AUTHORITIES **PAGE**

Aetna Life Insur.Co., v. Lavoie,
475 U.S. 813, 831, (1986).....20

Allen Damron Construction Co., v. Mickens, 725
So. 1174, 1175 (FLA. 2nd DCA 1998).....18

Barkett v. Hoisy, 399 So. 2d 385
(Fla. 3d DCA 1981).....4, 15, 21

Bohlinger v. Higginbothan, 70 So. 2d 911
(Fla. 1954).....3

Chapoteau v. Chapoteau, 659 So. 2d 1381,
1384 (Fla. 3d DCA 1995)..... 3

Defreitas v. Defreitas, 398 So. 2d 991, 992
(Fla. 4th DCA).....18

Flagship National Bank of Miami v. Testa, 429
So. 2d 69 (Fla. 3d DCA 1983)..... ...4

Florida Power & Light Co., v. Canal Authority
of State of Florida 423 So. 2d 421
(Fla. 5th DCA 1982).....3

Freeman v. Freeman, 447 So. 2d 963, 964
(Fla. 1st DCA 1984).....17

Gay v. McCaughan, 105 So. 771 (Fla.1958)..... ...15

Girard v. Trembley, 384 So. Ed 39
(Fla. 3rd DCA 1980).....25

Hart v. Hart, 458 So. 2d 813
(Fla. 4th DCA 1984).....18

Hartford Accident & Indemnity Co. v. City of
Thomasville Ga. Ex rel. Karner, 100
Fla. 748, 130 So. 7 (1930)..... 3

Locke v. Sandler, 156 Fla. 136, 23 So.
176 (1945).....4

Lovett v. Lovett, 93 Fla. 611, 112 So. 768 (1927).....16

Malone v. Meres, 91 Fla. 709, 109 So. 677 (1926).....15

Mendelson v. Mendelson, 341 So 2d 811,
813-14 (Fla. 2d DCA 977).....7, 19

Oakley v. Oakley, 439 So. 2d 1044
(Fla. 4th DCA 1983).....18

O.P. Corporation v. Village of North Palm
Beach, 302 So.2d 139 (Fla.1974)..... 7, 19

Ray v. State, 403 So. Ed 956, 960.....18.

Robinson v. Howe, 35 Fla. 73, 17 So. 368 (1895).....4,-21

Roger & Ford Construction Corp., v. Carlandia
Corp. 626 So. 2d 1350 (Fla. 1993)..... 4, 26

Sanford v. Rubin, 237 So. 2d 134, 137 So.
2d 240 (Fla. 3d DCA 1974.....18

Santos v. Bogh, 334 So. 2d 833 (Fla. 3rd DCA
1976.....25

St. Lucie Harvesting & Caretaking Corp. v. Cervantes, 644 2d 7 (Fla. 4th DCA 1995).....8, 25

Tutwiler Cadillac, Inc., v. Brockett, 551 So. 2d 1270 (Fla. 1st DCA 1974).....18

Walker v. City of Jacksonville, 360 So. 2d 52 (Fla. 1st DCA 1978).....25

Weiss, 510 U.S. at 178.....20

W.R. Cooper Inc., v. City of Miami Beach, 512 So. 2d 324, 326 (Fla. 3rd DCA1987).....4, 21

303 S.W.2d 110, 294 S.W. 2d 308, 311, 498 S.W. 2d 73, 76..... 27

U.S.C.A. CONST. AMEND. 14.....17

Article V, Section 1 Constitution State of Florida.....9

Article V, Section 5 Constitution State of Florida.....9

F.S. Chapter 26.....10

F.S. Chapter 65.....24, 28

F.S. Chapter 66.....24, 28

Section 689.01, F.S.....6, 24

IN THE

Supreme Court of the United States

No.

RONNIE MICKENS and GLORIA J. MICKENS,
Petitioners,

vs.

ALLEN DAMRON CONSTRUCTION CO., and
STEWART TITLE GUARANTY CO., et al.,
Respondents.

Petition for a Writ of Certiorari to the
Second District Court of Appeals, Second District
State of Florida

PETITION FOR A WRIT OF CERTIORARI

Ronnie Mickens and Gloria J. Mickens respectfully petition for a writ of certiorari to review the judgment of the court of appeals in these two purportedly separate cases.

OPINIONS BELOW

The opinions of the Second District Court of Appeals (App. A,B,C,D) are reported at 725 So. 2d 1174, 1175 (Fla. 2nd DCA 1998), 773 So. 2d 1194, 890 So. 2d 1139 (Fla. 2nd

DCA). The opinion of the Second District Court of Appeals (App. D is not reported).

JURISDICTIONAL STATEMENT

Jurisdiction is based on a state court of last resort that has decided an important federal question in a way that conflicts with the decisions of other state courts of last resort, the United States Supreme Court, United States Constitution, Florida Constitution, Florida Statutory Laws and Florida Case Laws on the same points of law. The dates of the judgments or orders that Petitioners Mickens are seeking to be reviewed are January 27, 1998, July 12, 1999, October 2, 2003, May 14, 2004 and June 14, 2004. This court has jurisdiction pursuant to 28 U.S.C.A. SECTION 1257.

An incorrect decision on subject matter jurisdiction is fundamental error. It constitutes a departure from the essential requirements of the law and warrants invoking certiorari jurisdiction in the United State Supreme Court. See